

climate science community that hold that global average temperatures may exceed 10 degrees Celsius and that catastrophic events may occur as soon as five or ten years?

The climate is changing and human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.

78. Our ability to predict the weather has improved dramatically over the last 20 years with the advent of supercomputers, new satellite monitoring options, and vastly superior atmospheric models. But still floods, droughts, hurricanes and similar phenomena occur and cause damage with sometimes only limited warning. What precision of prediction do you require before you are willing to accept the scientific community's overwhelming consensus that unchecked increases in greenhouse gas emissions will very likely have catastrophic effects, many of which the National Climate Assessment has described in detail every 4 years since 1990?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.

79. Do you believe that science should guide our nation's environmental policy?

Congress has made it very clear in the Clean Air Act, the Clean Water Act and other major environmental laws that the regulatory actions of the EPA should be based on the most up to date and objective scientific data. If confirmed, I will follow the directives of Congress to set science-based standards to protect the environment and human health.

80. What would have to change about our ability to predict the effect of increasing greenhouse gas emissions in Earth's atmosphere for you to consider it adequate?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate.

81. Would you support making those changes in sufficient time to ward off any negative effects of increasing those emissions?

The ability to measure with precision the degree and extent of human activity on our changing climate, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will make sure the agency's regulatory actions are based on the most up to date and objective scientific data.

82.What is your scientific background and what expertise do you have in environmental science?

My degrees are in communications, political science, and law. As with prior EPA Administrators who held bachelor of arts degrees, I completed science courses as a prerequisite to requiring my degree. Also, I understand that six of the 12 people who have been confirmed as EPA Administrator (including the first four individuals) had law degrees.

83.How do you square your opinion that air regulation is a matter for the states and that EPA has limited authority to mandate regulation of air pollution, with the court's overwhelming opinions that EPA has exclusive authority to regulate air pollution including greenhouse gases?

The concept of cooperative federalism is a bedrock principle of the Clean Air Act, the Clean Water Act and other EPA-administered laws. Whether working to improve air quality, water quality or other important environmental objectives, Congress made achieving these a shared responsibility between the EPA and the states. If confirmed, I will respect the intention of Congress and relative statutory framework.

84.Given that you are one of the lead attorneys challenging the clean power plan, a regulation promulgated by EPA in part due to the court's decision in landmark cases that determining EPA authority and responsibility to regulate greenhouse gases for domestic sources, in you rescind the Clean Power Plan:

It is unclear what question is being asked.

85.What policies would you promulgate to replace the Clean Power Plan, which you would have to do to ensure the EPA is in compliance with the court orders to regulate greenhouse gases?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities.

86.What assurances will you give the public that your proposed replacement rules will withstand the tests established in the case law determining EPA's endangerment finding is adequate and legal and sufficiently regulates carbon pollution to protect public health and safety?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities.

87. Do you trust the analysis, concerns and recommendations of security experts at the State Department, Department of Defense, Central Intelligence Agency, The Navy War College, UN Security Council, and the World Bank, who have expressed growing concerns over the threat climate change poses to national and global security?

I have no reason to disagree with the statements from the listed security experts, although I have not made any attempt to independently verify their accuracy.

88. U.S. national security experts that are working to incorporate climate modeling and climate change assessments into our national security planning apparatus rely on sound scientific analysis, modeling data, and technical assistance from the EPA in interpreting the data. Will you commit to continuing EPA's engagements with the agencies and departments responsible for protecting our national security and advancing our understanding and preparedness for the security risks climate change poses to the United States?

Interagency cooperation is very important. If I am confirmed as Administrator, I will collaborate with any agency or department that may require the EPA's technical expertise to strengthen their own administrative actions.

89. What assurances can you provide the public, particularly vulnerable communities at greatest risk from pollution, that you will represent their interests fairly as administrator when your personal political campaigns, as well as organizations that you have held leadership positions within - like the Republican Attorneys General Association, has received hundreds of thousands of dollars in contributions from the fossil fuel industry because of your working championing their interests by challenging laws regulating these industries?

As I explained in my testimony to the Committee, I am a firm believer in the EPA's mission to protect the environment and look forward to the opportunity to lead the agency to help provide our future generations with a better and healthier environment for all Americans.

90. You have lost many of the lawsuits challenging EPA's authorities, including the Chesapeake Bay TMDL and the lawsuit challenging the endangerment finding on greenhouse gases. Given the difficulty you've had winning cases, what

assurances can you provide the committee of your sound judgment when it comes to understanding our nation's environmental statutes?

As Attorney General of Oklahoma, my focus has been on examining federal environmental statutes and relevant case law to evaluate the legality of the EPA's actions and the impact of those actions on Oklahoma. Oklahoma filed a friend of the court brief with the U.S. Court of Appeals for the Third Circuit in part to inform the court how EPA's interpretation of TMDL and other matters involved in the challenge would impact other states, including Oklahoma. If I am confirmed, I will apply those lessons which I have developed in the performance of my duties as Attorney General and would continue to do so if confirmed as Administrator.

91. Will you work with all stakeholders and the State Department on execution of the Kigali Amendment to the Montreal Protocol to phasedown hydrofluorocarbons (HFCs) and will you commit to ensuring that any actions EPA may take to modify or rescind the Safe New Alternatives Program (SNAP) rules on HFCs coincide with the U.S.'s acceptance or ratification of the Kigali Amendment?

Should the State Department decide to advance the Kigali Amendment to the Montreal Protocol and if I am confirmed as Administrator, I will work with all involved agencies and impacted stakeholders to ensure that EPA's actions related to hydrofluorocarbons (HFCs) are coordinated accordingly.

Ranking Member Carper:

1. Please list all public speeches or presentations you have made that included references to any issue related to energy or the environment since 1998, and please provide copies (written, audio, or video) of any such speeches or presentations. Please also indicate whether you received compensation for any such speech or presentation (whether stipend, travel, lodging expenses, or other form of remuneration) along with the name of the entity that provided such compensation and the amount thereof.

Please see attached list of speeches and enclosed copies of speeches in response to this request.

2. Please provide a list of the skills and experiences you bring to the EPA Administrator position and why you believe that you would be a good fit for the position.

I am a licensed attorney with significant experience in constitutional law, the Administrative Procedure Act, and Environmental Protection Agency administered statutes. This body has recognized my expertise in EPA related matters on several occasions, inviting me to testify before this and other committees on matters relating to the EPA. My legal education and profession has trained me to ask probing questions and think critically regardless of the subject.

3. Please define the Environmental Protection Agency (EPA)'s mission and the role you believe that sound science plays in fulfilling that mission.

The mission of EPA is to protect human health and the environment. Where Congress directs the EPA to act based upon scientific findings, the EPA should rely on well-reasoned, and sound, scientific findings.

4. In a 2006 article in The Oklahoman, you were described as someone that "believes in negotiating, but not compromising." Do you feel this continues to be an accurate description of you? If so, why? Do you agree with President Nixon's articulation of the principal roles and functions of the EPA? If you do not agree, please explain the aspects with which you disagree and why.

Based on the limited information provided in the question, I am uncertain about the article to which the question refers. The content and context of

the article and quote are not readily apparent. However, if confirmed as Administrator, I will take my responsibility to protect human health and the environment for all Americans with the highest possible dedication and commitment in accordance with the legal authorities established by Congress. I have a record of working on a bipartisan basis.

5. Do you think it is constitutional for Congress to direct EPA to set national standards that protect public health? Is it constitutional for Congress to do that even if the pollution only harms citizens of a single state?

The constitutionality of laws enacted by Congress depends on the particulars of the particular law, and will typically be decided by a court. Courts have generally recognized that Congress has the authority to create the EPA and vest certain powers in it.

6. Mr. Pruitt, your official biography on the website of the Oklahoma Attorney General's office says that you are "...a leading advocate against the EPA's activist agenda." The EPA, the agency you have been nominated to lead, has the critical mission "to protect human health and the environment" for all Americans. When you sued the EPA over the Good Neighbor Rule (Cross-state Rule), how did that protect human health and the environment for downwind states?

I firmly believe that the EPA plays an important role in addressing interstate water and air quality issues, but it must do so within the bounds of its legal authority. The actions undertaken by the Office of Attorney General challenging the Cross State Air Pollution Rule related to whether EPA had properly accounted for and allocated pollution from upwind states, as mandated by Congress. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

7. You've been part of numerous lawsuits against the EPA – against clean air, clean water and climate regulations. However, you also have stated you are for clean air and clean water. Can you name one Clean Air Act regulation – not a voluntary or grant program – that is on the books today that you do support?

I firmly believe that the EPA plays an important role, especially as it relates to cross-state air and water pollution, but EPA must do so within the bounds of its legal authority as provided by Congress. Regulations that are not on solid legal foundation and that cannot survive judicial review will not result in environmental protections.

8. Are there any other EPA regulations that are on the books today that you do support?

I have not conducted a comprehensive review of existing EPA regulations. As Attorney General, I have brought legal challenges involving EPA regulations out of concern that EPA has exceeded its statutory authority based on the record and law in that matter.

9. President-elect Donald Trump has said repeatedly—at least half a dozen times—on the campaign trail that he would starve the EPA of funding or completely eliminate the agency. In March last year, the President-elect stated in reference to the EPA:

“We are going to get rid of it in almost every form. We’re going to have little tidbits left but we’re going to take a tremendous amount out,”

After the election, the President-elect didn’t seem to change his tune. President-elect Trump stated two days after the election again in reference to the EPA:

“Environmental protection, what they do is a disgrace; every week they come out with new regulations,”

You also have a history attacking the agency. Please tell us why we should disregard the President-elect’s statement on the EPA, disregard your actions and only believe your words that you will support clean air and clean water laws?

As I testified, I support the EPA's mission to protect human health and the environment. If confirmed, I will faithfully execute the environmental laws enacted by Congress.

10. As Administrator, will you take into account the true costs of air pollution including the adverse health and environmental impacts on states that are adversely affected by upwind pollution sources?

As I stated at the hearing, costs are important in the rulemaking process and the Courts have recognized that important factor. The Clean Air Act prescribes when costs should be considered and to what extent in a

rulemaking. If confirmed, I commit to faithfully executing the law as enacted by Congress.

11. As Administrator, will you take into account the full economic and job benefits that result from clean air protections such as the economic benefits to communities from clean air and American leading businesses that manufacture advanced technologies?

As I stated at the hearing, the EPA should consider the benefits of cleaner air for the public. The Clean Air Act prescribes certain instances where the EPA is obligated to conduct a cost-benefit analysis as part of the rulemaking process. If confirmed, I commit to faithfully execute the law as enacted by Congress.

12. If it is technologically and economically feasible to eliminate the release of a particular pollutant, do you agree that we should do so?

Environmental statutes prescribe certain instances where technological or economic feasibility is a relevant factor to consider in a rulemaking. If confirmed, I commit to faithfully execute the law as enacted by Congress.

13. I have often found that environmental regulations can and often drive innovation. We have seen that with the Acid Rain Program, CAFÉ, Clean Diesel standards, RFS and most recently with the mercury standards. Do you agree environmental regulations often drive innovation? If so, why? If not, why not?

The factors that lead to technological innovation can be complex and varied, and legal requirements may be one such factor.

14. Who serves or has served as your scientific advisor for climate change related issues during your time as attorney general? Please provide their names, their titles, and when they served as your science advisors.

The Office of Attorney General does not have a science advisor to advise on climate change related issues.

15. Mr. Pruitt, my State of Delaware is already seeing the adverse effects of climate change with sea level rise, ocean acidification, and stronger storms. While all states will be harmed by climate change, the adverse effects will vary by

state and region. Can you comment on why it is imperative that we have national standards for the reduction in carbon pollution?

If confirmed, I will fulfill the duties of the Administrator consistent with Massachusetts v. EPA and the agency's Endangerment Finding on Greenhouse Gases respective of the relative statutory framework established by Congress.

16. Pruitt, will you agree that there will be no retaliation against EPA employees who work on climate change issues?

If confirmed, yes.

17. Clean car standards save consumers money at the pump and help reduce oil imports. Automakers are complying with vehicle standards ahead of schedule. As Administrator, will you commit to support, defend and enforce EPA's current programs to address emissions from vehicles?

Congress has enacted numerous statutes directly or indirectly affecting transportation fuels, transportation fuel infrastructure, and the vehicles that consume those fuels. Congress committed many of those statutes to the EPA Administrator's responsibility. If confirmed as Administrator, I would administer each of those statutes in accordance with Congress's statutory objectives, and in light of the administrative record in each given proceeding. And I would work with Congress to ensure that its statutes continue to provide the best possible legal framework for governing American fuels, fuel infrastructure, and vehicles, and for promoting American energy independence, energy security, and environmental protection.

18. What is your definition of sound science?

Sound science is that which complies with applicable laws and federal guidance regarding scientific integrity, peer review, information quality, and transparency.

19. Prior to your nomination, how have you acquired scientific information relevant to the missions of the EPA? And since your nomination?

As Attorney General of Oklahoma, my focus has been on examining federal environmental statutes and relevant case law to evaluate the legality of the EPA's actions. Legal education is rooted in the Socratic method, which trains law students through probing questions and critical thinking and I apply those lessons and skills in the performance of my duties as Attorney General and would continue to do so if confirmed as Administrator.

20. Please list all undergraduate and postgraduate science courses that you have taken. Please describe any other science education that you have completed over the years beyond high school.

My degrees are in communications, political science, and law. As with prior EPA Administrators who held bachelor of arts degrees, I completed science courses as a prerequisite to requiring my degree.

21. President Nixon articulated that an important role for EPA is "The conduct of research on the adverse effects of pollution . . . the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes." Do you agree with President Nixon that EPA has an important role to play in researching any emerging risks from pollution as well as strengthening protections and recommending policy changes based on the science?

Yes.

22. Do you think the U.S. National Academy of Sciences is a reliable authority on scientific matters?

I have no reason to think otherwise, but I have not had occasion as Attorney General to consider this issue.

23. What degree of scientific certainty should the EPA have about a potential health or environmental threat before acting to protect people from that threat?

EPA actions are governed by statutes such as the Clean Air Act and other legal authorities and relevant case law, which establish applicable legal and scientific standards for the Administrator to act. If confirmed, I will adhere to these authorities to fulfill EPA's mission to protect human health and the environment for all Americans.

24. Do you support legislative efforts to change the independent nature of the EPA's Science Advisory Board? If so, please explain why.

I am unfamiliar with the legislative efforts being referred to in this question. If confirmed, I expect to be briefed by EPA staff before taking any position on such matters.

25. If confirmed, do you plan to propose or advocate for budget cuts to the EPA's FY 2018 budget? If so, for which programs would you reduce funding? Would you target the EPA's research programs? Are there areas of agency action where you believe additional financial resources are needed?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I look forward to working with EPA's budget staff and program offices to develop a budget and will work to ensure that the resources appropriated to EPA by Congress are managed wisely in pursuit of the Agency's important mission and in accordance with all applicable legal authorities.

26. For the most part, patients and their families only participate in scientific trials and studies once they know their privacy - and any resulting health-related information - will remain confidential and secure. If confirmed, do you commit to respecting confidentiality agreements that exist between researchers and their subjects? Will you protect the health information of the thousands of people that have participated in health studies in the past?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to improving public health and our environment. I have no first-hand knowledge of EPA's policies or practice concerning the confidentiality of health information. If confirmed, I would expect to learn more about the existing practice and I commit to follow applicable legal authorities regarding the confidentiality of health information.

27. If confirmed, how will you ensure that EPA maintains independent science, transparent decision-making, and scientific free speech?

If confirmed, it will be my privilege to work with EPA scientists and the thousands of other dedicated public servants at EPA who have chosen to

devote their careers to improving public health and our environment. I also commit, if confirmed, to follow applicable laws and federal guidance on scientific integrity, information quality, and transparency.

28. Mr. Pruitt, when Congress passed our bedrock environmental laws, we directed EPA to periodically review and update the federal minimum health protection standards based on the best available scientific evidence. Do you agree that these federal minimum standards must be based on the best available science?

I agree that EPA regulatory actions must be based on the best available science in accordance with the law. If confirmed, I commit to faithfully execute the law as enacted by Congress.

29. Mr. Pruitt, conflicts of interest threaten the integrity of science and public trust in the agency's scientific determinations. Scientists are not immune from having their work and conclusions influenced by their financial interests. Allowing scientists with conflicts of interest to serve as peer reviewers is contrary to widely accepted scientific integrity practices, including those of the National Academies of Sciences, the National Institutes of Health, and other scientific bodies. Industry funded scientists who may have unique expertise can be invited to present information to peer reviewers or an advisory committee, but should not actually serve as a reviewer or member of the committee. Can you explain what steps you would take as Administrator to ensure that scientists with financial conflicts of interest do not threaten the independent peer review process at EPA?

Independent peer review is critical to ensuring the scientific integrity of EPA actions. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner environment. I commit, if confirmed, to follow applicable legal authorities regarding conflicts of interests in the scientific peer review process.

30. Mr. Pruitt, do you agree that for scientific research to be credible, it must be subject to objective, independent peer review before it is published and remain subject to scrutiny after it is published?

Independent peer review is critical to ensuring the integrity of scientific research. If confirmed, it will be my privilege to work with EPA's scientists and the thousands of other dedicated public servants at EPA who have chosen to devote their careers to making a healthier and cleaner

environment. I commit, if confirmed, to follow applicable legal authorities regarding the peer review process for scientific research.

31. Mr. Pruitt, do you agree that for scientific research to be credible, scientists must disclose all sources of funding for their research?

Credible scientific research is critical to the EPA's mission and, if confirmed, I commit to follow applicable legal authorities regarding scientific research.

32. In the 1970 and 1990 Clean Air Act Amendments, Congress delayed older coal power plants air control requirements because Congress thought that most of the old plants would be shuttered in the decade after the legislation passed. Congress thought there was no need to invest in new technologies at these old, dying plants. Did many of these coal plants actually retire? Do you know the average age of our coal fleet?

I understand that the U.S. Energy Information Administration's Electric Power Annual 2015 report released in November 2016 indicated that between 2005 and 2015 more than one-third of U.S. coal-fired power plants retired and the remaining fleet has an average age of 38 years.

33. Do you know what the role the price of natural gas plays in industry decisions to retire coal plants and fuel switch to natural gas?

I am aware that market conditions, such as the reduced price of natural gas, and costly environmental regulations have been causing coal-fired power plants to prematurely shut-down or convert to natural gas.

34. In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?

Oklahoma's petition to review the Mercury and Air Toxics Rule was a legal challenge brought on the administrative record and argued that EPA acted contrary to law and arbitrarily and capriciously by not considering the costs of regulation in determining whether it was necessary and appropriate to regulate mercury from fossil fuel power plants within the meaning of Section 112(n). The Supreme Court ultimately agreed with Oklahoma's argument that EPA failed to act in accordance with the rule of law when it ignored costs in its determination and remanded the matter to the D.C. Circuit.

35. Mr. Pruitt, ten percent of American women have dangerous levels of mercury in their bodies. But recent data shows that since the United States started cleaning up emissions from coal power plants, not only has mercury pollution in the North Atlantic fallen dramatically, so has the concentration of mercury in Atlantic fisheries. Mercury in Atlantic bluefin tuna is down 19% in only eight years. Given this resounding confirmation that regulation works, how firmly can you assure us that if you are confirmed, EPA's recent successful crackdown on all sources of mercury emissions, including coal power plants will accelerate, rather than pulling back?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

36. As you may remember, we had three exchanges over the issue of whether EPA should regulate toxic air emissions, including mercury, from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that again addresses regulation of power plant mercury and other toxic air emissions under Section 112. Below is a direct quote from our second exchange, when I asked you directly about regulating power plant toxic air emissions:

"Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or adopting rulemaking in that regard. Our challenge was with regard to the process that was used in that case and how it was not complicit with statutes as defined by congress. So there is not a statement or belief that I have that mercury is something that shouldn't be regulated under section 112 as a hazardous air pollution. A HAP."

These statements conflict directly with the language in the brief that you filed on June 2012 in *White Stallion Energy, et al. V EPA*: which says: "Finally, the record does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas haps pose public health hazards."

These statements also conflict directly with language in the brief in the pending case that you filed April 25, 2016 with Murray Energy Corporation, et al v EPA: "EPA cannot properly conclude that it is "appropriate and necessary to regulate HAPs under Section 112."

These written statements quite clearly directly contradict your statements before our committee. Which statement is false, the verbal before our committee or the legal documents you filed pending in court? If confirmed, will you recuse yourself from any involvement in questions or cases related to regulating air toxic emission from power plants under Section 112(d) of the Clean Air Act?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. That challenge was made by Oklahoma on the specific administrative record before the court in that matter and all statements regarding the sufficiency of regulation in that case relate only to the material in the record before the Agency. If I am confirmed as Administrator, I will apply the Clean Air Act faithfully in all matters before me and will follow the advice of the EPA Ethics Counsel in determining any recusals.

37. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

"Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states."

You answered:

“Mercury under Section 112 is something that EPA should deal with and regulate.”

You stated this many times. I was very clear in my questioning that I was asking about mercury emissions and of course, the many other air toxic emissions, which the courts have said must be regulated under Section 112(d) from power plants. However, in this answer, you only mentioned mercury and not power plant mercury emissions, and you completely disregarded the other air toxics that are emitted by power plants, which include acid gases and carcinogenic metals like arsenic, nickel and cadmium. So please clarify, if confirmed, can we have your assurance that the EPA will continue to regulate power plants using the technology based standards required by Section 112(d) of the Clean Air Act and you will not defer to the states. Please answer in regards to all power plant air toxic emissions, not just on the question of mercury itself, and not just with respect to whether mercury should be regulated, but as to whether power plant mercury and other air toxics must be regulated.

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

38. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. After our first exchange, you stated:

“There was no argument that we made from a state perspective that mercury is not a hazardous air pollutant under Section 112. Our argument focused upon the cost-benefit analysis that the EPA failed to do and the Michigan v EPA case the Supreme Court actually agreed. It was more about the process again that the EPA was supposed to go through in regulating mercury to provide certainty to

those in the workplace, not a statement in respect whether mercury should be regulated or not under section 112.”

Mr. Pruitt, in this exchange, did you mean to avoid the question whether power plant mercury and other HAPs must be regulated under the technology based requirements of maximum achievable control, under Section 112(d)? Or do you agree the Supreme Court, which expressly declined to consider this question, leaving the MATs Rules Section 112(d) regulations in place? Please fully explain your previous statements.

Neither statement is false. As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants, and Oklahoma was not challenging mercury’s status as a HAP in the case you reference. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma’s legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

39. As you may remember, we had three exchanges over the issue of whether EPA should regulate mercury (and other air toxic) emissions from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that implement regulations to regulate power plant mercury emissions under Section 112. As you may remember, I specifically asked you at the end of the hearing:

“Based on your earlier statements, that if confirmed we can have your assurances that the EPA will continue to regulate mercury emissions from power plants under Section 112 of the Clean Air Act and you will not defer to the states.”

You answered:

“Mercury under Section 112 is something that EPA should deal with and regulate.”

You stated this many times during our exchanges. I was very clear in my questioning that I was asking about mercury emissions from power plants. And of course as well the many other air toxics emitted by this industry and listed by congress for regulation. However, in this answer, you only mentioned mercury and not power plant mercury emissions, or other air toxics at all. So please clarify,

- Do you agree that the EPA's recent consideration of the costs of the Mercury and Air Toxics Rule that shows that the agency has met the "necessary and appropriate" criteria Congress provided under 112(n) to direct the EPA to regulate power plant mercury (and other air toxic) emissions under Section 112, and more specifically under Section 112(d)? If not, why not?
- If you do not agree that EPA has met the "necessary and appropriate" criteria found in Section 112(n), what is your understanding of what that would mean for the Mercury and Air Toxics Rule?
- If the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), is successful what is your view of what EPA would have to do to regulate mercury and other hazardous air pollutant power plant emissions under Section 112?

As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. In my capacity as Attorney General of the State of Oklahoma, on remand the petitioner group has argued that EPA's supplemental finding regarding costs is contrary to law and arbitrary and capricious for the reasons stated in that brief. If the D.C. Circuit finds against EPA, I am confirmed as Administrator and the matter comes before me at that time, I will seek and follow the advice of EPA Ethics Counsel in determining whether I may participate in that matter. If I do participate in that matter, I will apply the Clean Air Act faithfully and use my best efforts to take appropriate action in light of the administrative record before the Agency at that time.

40. In the pending case you brought before the DC Circuit challenging EPA's cost analysis (Murray Energy Corporation, et al v EPA), the following statement is included in your brief:

"EPA also claims that, even though it was able to quantify highly uncertain IAQ benefits purportedly resulting from mercury emissions, other health and

environmental benefits of reducing EGU mercury, acid gas, and non-mercury metals emissions simply could not be quantified. But these purported benefits are to speculative to support "appropriate and necessary" finding for the same reasons the Agency cannot quantify them: they are not supported by the scientific literature."

As you probably know, the health benefits of cleaning up hazardous air pollutants are many, although many are difficult to quantify and certainly difficult or impossible to monetize. There are, however, several studies on how to quantify loss of IQ from mercury exposure and some early studies on how to quantify long-term effects of exposure. If confirmed, how do you recommend the EPA calculate the health risks to the unborn that may be exposed to mercury-laden fish because of power plant mercury emissions? How would you quantify the health risks of the Oklahomans living near the forty lakes that have mercury fish consumption advisories? There are also emerging studies quantifying the health impacts of the toxic metals and acid gases emitted by power plants, although monetizing the precise health costs of each pollutant are not possible as they are emitted in the toxic soup. How would you justify not protecting people living near these emissions if it were not possible to precisely quantify the health risks of exposure to power plant emissions of hydrochloric acid, hydrofluoric acid, nickel, arsenic, chromium and other heavy metals?

If I am confirmed as Administrator, I look forward to working with EPA staff to arrive at a transparent and scientifically sound process for determining the health risks associated with any activity that is properly before me at the Agency, including those related to mercury exposure, and regulating those activities as appropriate consistent with Congress's intent in enacting the Clean Air Act.

41. What industry is the largest emitter of mercury air emissions in this country? The second? The third? Please provide peer-reviewed data and sources for this answer.

EPA's technical support document (v2) for the 2011 National Emissions Inventory indicates that the industries that are the three largest point source emitters of mercury in the U.S. are (1) utility coal boilers, (2) electric arc furnaces, and (3) industrial, commercial institutional boilers and process heaters.

42. What impacts do mercury power plant air emissions have on unborn children? Can you explain how power plant mercury emissions settle in water bodies and eventually can impact the unborn?

Some portion of mercury emitted into the air by power plants is deposited directly or indirectly into a watershed. Once present in the watershed, it can be naturally converted into methylmercury, which can then be absorbed by aquatic organisms, such as fish, and consumed by humans. The unborn children of pregnant women can be exposed to methylmercury if their mothers consume those fish.

43. How much of our nation's mercury air emissions come from the natural environment, vs manmade emissions? Please provide peer-reviewed data and sources for this answer.

J.M.Pacyna et al.: Current and future levels of mercury atmospheric pollution on a global scale, *Atmos. Chem. Phys.*, 16, 12495–12511, 2016, indicates that approximately 30% of worldwide mercury emissions are manmade and 70% come from primary natural mercury emissions and re-emissions.

44. Mr. Pruitt, do you understand that EPA's data show that power plants emit not only 50 percent of all US emissions of mercury, but that they also emit 82% of hydrochloric acid gas, 62% of hydrofluoric acid gas as well as many listed heavy metals, which are emitted as particulate matter, including Selenium (83% of domestic emissions), Nickel (28% of domestic emissions), Arsenic (62% of domestic emissions), Chromium (22% of domestic emissions), and others? The cite for those statistics is found in EPA's record at 76 Fed. Reg. Page 25006 Table 5. Given that Section 112(d) as interpreted by the US Courts for many years requires the regulation of all listed hazardous air pollutants from listed industries, would you not agree that power plant hazardous air pollutants must all be regulated under the technology based requirements of section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce the Mercury Air Toxics Rule so long as that Rule remains in force.

45. Given that the statute requires a showing that not one power plant emits hazardous air pollutants in amounts greater than required to cause a lifetime risk of cancer greater than one in a million to the most exposed persons, and for non-carcinogenic air toxics, to exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effects, and given that EPA's long standing record shows that the coal- and oil-fired power industry cannot make either of those showings what other regulatory mechanism do you believe is available "under section 112"?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. If confirmed, I will enforce Mercury Air Toxics Rule so long as that Rule remains in force. If I am confirmed as Administrator and am presented with information showing that EPA has discretion to regulate power plants in a manner that is consistent with the Clean Air Act but that differs from the Mercury and Air Toxics Standard, or that power plants meet the standard for de-listing under Section 112(c)(9), I would consider that matter in due course as I would consider any other matter under my jurisdiction in due course.

46. The joint brief filed by your state and the regulated industry in the most recent round of appeals of EPA's decision making on power plant air toxics suggests that you are not aware of recent court precedent upholding EPA's evaluation of all the benefits, including so-called 'co-benefits' of EPA's rulemaking on particulate matter reductions that would be the direct result of the rule. What is your position on the importance of judicial precedent in governing the Agency's actions under the same statutes as have been previously interpreted by the courts?

If confirmed, I would faithfully comply the Clean Air Act in accordance with congressional intent. Judicial precedent is undoubtedly an important guide to congressional intent but Congress has also delegated interpretive authority to the Administrator of the Clean Air Act, consistent with judicial review. If I am confirmed as Administrator and form the judgment that a judicial decision is incorrect, I would consider seeking an appeal or petition for certiorari to the Supreme Court seeking reversal of that decision. Likewise, EPA recently promulgated regional consistency regulations that address the implication of adverse federal court decisions that result from challenges to locally or regionally applicable actions and I would exercise my discretion under those regional consistency regulations unless and until they are changed.

47. As I am sure you are aware, the US Supreme Court has expressly declined to consider whether EPA should have chosen some other mechanism "under section 112" in regulating power plant mercury and all the other HAPs emitted by the industry. What is your position on that precedent?

In the White Stallion decision, the D.C. Circuit held that EPA's interpretation of Section 112(n) that Sections 112(c) and -(d) provided the appropriate mechanism for regulating power plants under Section 112 after the appropriate and necessary determination was made was entitled to deference. As your question indicates, the Supreme Court did not grant

discretionary review of that question. So long as the White Stallion decision is not reversed by the D.C. Circuit and the underlying agency action is not vacated, it remains a valid judicial precedent on this point.

48. Given that you have been actively suing the EPA over the Mercury and Air Toxics Rule and have one pending lawsuit, will you recuse yourself from participating in any decision making that may reopen the EPA's decision regarding the fact that it is "necessary and appropriate" to regulate power plants under Section 112 of the Clean Air Act?

As I stated in my testimony to the Committee, I will follow the advice of EPA Ethics Counsel in all recusal matters.

49. If confirmed, will you continue with EPA's assertion that it is "necessary and appropriate" to regulate mercury and other hazardous air pollutants from power plants under Section 112 – specifically under the technology based maximum achievable control requirements of Section 112(d)?

The Mercury and Air Toxics Standard has not been vacated by the Supreme Court or the D.C. Circuit and currently regulates both mercury and other air toxics. As Administrator, I will enforce all aspects of the Mercury Air Toxics Rule so long as that Rule remains in force.

50. Do you agree with the *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001) decision written by Justice Antonin Scalia that states that the EPA cannot consider implementation costs when setting primary and secondary National Ambient Air Quality Standards? If you do not agree, please explain.

As I stated in my testimony to Congress, there are instances where consideration of costs is not a factor. Setting the NAAQS for criteria pollutants is one such instance.

51. In 2015, you stated that in implementing the tighter ozone NAAQS, the EPA "failed to achieve the goals to protect air quality; the agency did not "articulate how the rule would further protect public health"; and was another "attempt by the administration to use executive agencies like the EPA to bypass Congress." Can you please explain what you meant by these statements?

Based on the limited information in the question, the source or context of the quote to which the questions refers is not readily apparent. Oklahoma

joined four other states in a petition for review of EPA's 2015 decision to lower the National Ambient Air Quality Standard for ozone from 75 ppb to 70 ppb. The legal question raised by the state petitioners in the case is whether EPA set the standard at a level than can be achieved by states given the background concentrations and uncontrollable sources of ozone in many parts of the country. The briefs filed by the many State petitioners to that rule fully explain the States' position and speak for themselves. The case remains pending before the U.S. Court of Appeals for the District of Columbia Circuit.

52. As many of my colleagues know, I am an avid runner. I especially love to run with my 22-year son, who is a triathlete. In Delaware during the summer, we often have code orange days warning about the high levels of ozone for that day. Can you take a minute or two to describe how high levels of ozone could damage my lungs if I were to take a long run during a code orange day? Does ozone pollution cross state boundaries? If confirmed, how would you direct states to work together to reduce ozone pollution?

As I indicated at my nomination hearing, the Cross-State Air Pollution Rule is important, as pollution does cross state boundaries. An upwind state that contributes to a downwind state's inability to meet air quality standards should take responsibility.

53. In 2013, you argued that the EPA's decision to impose a Federal Implementation Plan on Oklahoma to address Regional Haze would cost more than \$1 billion over five years. It is three years later. Do you still agree with this cost assessment? If not, why not?

The cost estimates referenced in this question were developed in connection with the Oklahoma State Implementation Plan that EPA rejected and EPA's subsequent decision to implement a Federal Implementation Plan. Oklahoma and a state utility filed legal challenges against the Federal Implementation Plan decision. The 10th Circuit initially stayed the rule pending judicial review. A split panel of the 10th Circuit upheld the Federal Implementation Plan in 2013. As Attorney General, I have not had reason to revisit the specific cost estimate at issue in this case.

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

54.If confirmed, will you continue to hold to the five-year National Ambient Air Quality Standards review time period that the Clean Air Act requires of the EPA?

If I am confirmed as Administrator, I will use my best efforts to hold to the five-year NAAQS review period prescribed by the Clean Air Act.

55. In previous hearings in this committee, we have had a few economists testify questioning EPA's science linking small particle pollution to negative health impacts. Can you just take a moment and talk about what you know about small particles and how they impact our lungs? Is the science robust in this area?

The science linking adverse health impacts and fine particulate matter pollution is well established. Accordingly, EPA has promulgated a National Ambient Air Quality Standard for particulate matter pollution that limits the concentration of small particulates, including those smaller than 2.5 microns, in the ambient air that at the level that the agency has determined is requisite to protect public health and welfare from adverse effects, while allowing an adequate margin of safety.

56. Mr. Pruitt, Section 109 of the Clean Air Act is very clear. It requires EPA to review the NAAQS for six common air pollutants including ground-level ozone, particulate matter, sulfur dioxide, nitrogen dioxide every 5 years. The Clean Air Act requires EPA to set these standards that "are requisite to protect the public health," with "an adequate margin of safety," and secondary standard necessary to protect public welfare. The science was clear that the 2008 ozone standard was not protecting public health, so EPA was required to Act. Is that not your understanding of the Clean Air Act?

Section 109 of the Clean Air Act requires EPA to set NAAQS at the level that is requisite to protect against adverse health and welfare effects, while allowing an adequate margin of safety. The Act includes a regular review cycle for criteria pollutants.

57. The EPA updated the Cross-State Air Pollution Rule in September 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing a CRA resolution of disapproval that would reject these new standards?

Although I am familiar with the update to the Cross-State Air Pollution Rule and generally familiar with the Congressional Review Act, I have not

reviewed any potential legislation which may reject these new standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue.

58. Mr. Pruitt, the Clean Air Act recognizes that air pollution does not respect state boundaries and directs EPA to set minimum national standards to protect the health of the nation, including protecting downwind states.

- Do you agree that EPA should set minimum national standards?
- Do you agree that EPA must protect downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

59. Mr. Pruitt, my State of Delaware is a downwind state, and most of the air pollution in my state is coming from upwind states.

- Do you agree that it is EPA's role to ensure equity between where air pollution is produced and where it is received?
- Do you agree that to remedy this unfairness, the upwind states must do more to control their emissions to avoid exporting the pollution (and the costs to the health and welfare) to the downwind states?

As I indicated during my nomination hearing, I believe the Cross State Air Pollution Rule is important and should be enforced by the EPA. An upwind state that contributes to a downwind state's nonattainment should take responsibility for that contribution.

60. As you are well aware, on April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court determined that sufficient information existed then for EPA to make an endangerment finding with respect to the combined emissions of six greenhouse gases from new motor vehicles and new motor vehicle engines under CAA section 202(a). On December 7, 2009, the Administrator determined that those gases/sources contribute to greenhouse gas pollution that endangers public health and welfare. How do you plan to execute your legal authority to protect the public health and welfare from greenhouse gas pollution?

The Supreme Court held that GHGs are an air pollutant under the Clean Air Act. It did not address the question of whether regulation of GHGs under the Clean Air Act is warranted. In the subsequent UARG decision, the

Supreme Court cautioned EPA that there are significant limits on EPA's authority to regulate GHGs under the Clean Air Act. The unprecedented Supreme Court stay of EPA's so-called "Clean Power Plan" was predicated upon a finding that the plaintiffs in the case were likely to prevail on the merits. In light of these holdings, I will hew closely to the text and intent of the Clean Air Act when considering further regulation of GHGs under that law if confirmed as Administrator.

61. Building off Congress's work on CAFE, the Obama Administration has updated emission standards for light and heavy-duty vehicles. These rules have had very little effect on the purchase price of new vehicles, but have saved consumers millions of dollars in fuel costs, vastly improved our energy security by slowing petroleum use and reduced a lot of pollution. If confirmed, do you support further strengthening vehicle emission standards? And with your federalism view, how do states address carbon pollution from vehicles themselves?

In making each of its decisions regarding light- and heavy-duty vehicle emission standards, the EPA has made decisions based on the administrative record at hand and Congress's statutory objectives. If confirmed, I would take care to make such decisions regarding vehicle emissions standards in furtherance of Congress's statutory objectives, based on the evidence in the administrative record. With respect to federalism, the Supreme Court stressed in *Massachusetts v. EPA* that States play a crucially important role in promulgating vehicle emission standards under the Clean Air Act: each "State has an interest independent of and behind the titles of its citizens, in all the earth and air within its domain." To that end, "Congress has ordered EPA to protect [the States and their people] by prescribing standards applicable to the 'emission of any air pollutant from any class or classes of new motor vehicle engines, which in [the Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'" Furthermore, the Clean Air Act and other federal administrative laws give each affected State "a concomitant procedural right to challenge the rejection of its rulemaking petition as arbitrary and capricious," and the Supreme Court affords States "special solicitude" to challenge the resulting standards in court. If confirmed, I would take care to ensure that States continue to play a central role in the administrative process giving rise to the EPA's vehicle emissions standards.

62. The EPA promulgated phase two of the heavy-duty vehicles greenhouse gas emissions standards in August 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing into law a CRA resolution of disapproval that would

reject these new standards? What is your view of whether the EPA would be able to re-issue any heavy-duty vehicle greenhouse gas emission standards given the CRA's language that would prohibit the agency from issuing regulations that are "substantially similar?"

Although I am familiar with the regulations on heavy vehicle greenhouse gas emissions standards which were published in August 2016, I have not reviewed any potential legislation which may reject these standards. If I am confirmed, I will thoroughly review any resolution of disapproval which may be filed pursuant to the Congressional Review Act on this issue. In terms of re-issuing other heavy-duty vehicle greenhouse gas emission standards, I would have to be briefed in detail on the regulations which have been published, and the provisions of the Congressional Review Act which prohibit the Agency from issuing any regulations which are substantially similar to the initial rules in order to determine what options the Agency may have in terms of proposing and finalizing additional regulations in this space.

63. As you know, the Renewable Fuels Standard, as amended by Congress in 2007, requires the blending of 36 billion gallons of renewable fuel into conventional gasoline and diesel by 2022. In order to add that many renewable fuel gallons to our fuel supply, do you agree that EPA must approve the sale of fuels blended with greater than 10-percent renewable content?

While Congress included "applicable volume" levels in the RFS statute, Congress also took care to expressly authorize the EPA Administrator to reduce volumetric requirements below the statute's default levels in light of real-world conditions from year to year. Specifically, the Administrator may waive the statute's volume requirements if he determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if confirmed, I would take care to administer the statute in accordance with the statutory objectives. While no statute mandates the sale of fuels blended with greater than 10 percent renewable content, statutes do vest the Administrator with discretion to authorize a variety of fuel blends.

64. In October 2010, EPA approved the use of a 15-percent renewable fuel blend for cars built in 2007 or later. In the following January, EPA extended the use of that blend to model years 2001 to 2006. Do you support the decision by the EPA to allow 15-percent renewable fuel blends? If confirmed, would you commit to

using the discretion give to you by the Clean Air Act to evaluate even higher blends?

The EPA's 2010 and 2011 decisions to grant "partial waivers" for the use of E15 fuel for some vehicles were premised upon the EPA's conclusions (based on the administrative record) regarding E15's potential impacts on exhaust emissions (both immediate and long-term), evaporative emissions, "materials compatibility," and "drivability and operability." If confirmed, I would take care to administer the law in accordance with Congress's statutory objectives and the administrative record.

65. The Renewable Fuels Standard was designed to reduce dependence on foreign oil at a time that the U.S. was importing well more than half of its demand and concerns about energy and national security were paramount. It also was designed to reduce greenhouse gas emissions from the transportation sector.

Now that the United States supplies 76 percent of its oil domestically, do you believe the program continues to have an important role in enhancing the energy and environmental security of our country?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security."

67. As you heard in my opening statement, the EPA's record demonstrates that strong environmental policies create economic opportunities. An undeniable example of this is the impact of the Renewable Fuels Standard in rural America. According to the Renewable Fuels Association, in 2015, 14.8 billion gallons of ethanol was produced, supporting 85,967 direct jobs, while net petroleum import dependence fell to just 24 percent, and would have been 32 percent without the addition of domestically produced ethanol. In addition, the Association says the use of ethanol in gasoline in 2015 reduced greenhouse gas emissions from transportation by 41.2 million metric tons — equivalent to removing 8.7 million cars from the road for an entire year. Do you agree that the Renewable Fuels Standard has supported rural economies in America while allowing for the production of cleaner transportation fuels?

I agree that the RFS's promotion of renewable fuels contributes to economic growth in agricultural communities, and promotes the production and consumption of transportation fuels providing many environmental benefits.

68. Some of my colleagues believe removing the corn ethanol mandate, but keeping the advanced biofuel mandate in the RFS is the best way forward. Do you have concerns with this approach?

The RFS statute neither expressly mandates the blending of corn ethanol nor prohibits its blending. In enacting the RFS statute, Congress took care to expressly authorize the EPA Administrator to reduce the volumetric requirements below the statute's default levels, in light of real-world conditions. Specifically, Congress authorized the Administrator to waive the volume requirements if he or she determines "that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States, or "that there is an inadequate domestic supply." The EPA already has granted such waivers based on real-world conditions in recent years and, if I am confirmed, I would take care to administer the statute in accordance with the statutory objectives.

69. As you may know, in recent years we have seen significant swings in Renewable Identification Number (RINs) prices. RINs are used by the EPA to track and ensure refineries are in compliance with the Renewable Fuel Standard. Many small and mid-range refineries are having difficulties with the price spikes of the RIN prices because many are buying some, if not all, their RINs off the market. As a result, high and volatile RIN prices have had a financial impact on these refineries. As the RFS continues to be implemented, what do you believe the agency should do – if anything - to assist with RIN prices?

As I indicated in my testimony, the EPA's RIN framework is currently the subject of a pending comment period. If confirmed as Administrator, I would take care to administer the RFS program, including the RIN framework, in accordance with Congress's statutory objectives, and based on the evidence in the EPA's administrative record, as well as the expertise of EPA staff and the expertise of other federal agencies relevant to the RIN framework and affected markets. The EPA already has entered into a "memorandum of understanding" with the CFTC, "on the sharing of information available to EPA related to the functioning of renewable fuel and related markets."

70. Mr. Pruitt, do you agree that the burden should be on a chemical facility operator to show that the design and operation of the facility is as safe as possible to protect workers and the public from explosions, fires, and other releases of toxic chemicals?

I believe that every American should be provided safe home and work environments and people who live or work in and around chemical facilities are no exception to that.

71. Mr. Pruitt, when there are feasible measures that chemical companies can take to prevent explosions and fires that release toxic chemicals into surrounding communities that can kill people, do you agree that the companies should take such measures?

I believe that chemical companies should take actions to prevent explosions and fires as well as other safety incidents.

72. Do you support the “not net loss of wetlands” policy? George H.W. Bush initiated this critical policy in 1988 to protect our remaining wetlands habitat and all of the critical ecological and economic functions it supports. It has been U.S. Government policy ever since.

Yes.

73. A GAO report published on December 5, 2013 found that “more than 40 years after Congress passed the Clean Water Act [...] EPA reported that many of the nation's waters are still impaired, and the goals of the act are not being met. Without changes to the act's approach to nonpoint source pollution, the act's goals are likely to remain unfulfilled.” If confirmed, how will you work to address surface water quality impairments, including from non-point source pollutants?

Congress did not grant EPA authority to regulate non-point sources because regulation of non-point sources is the regulation of land, a traditional state authority. Instead, Congress created a planning process under section 208 of the Clean Water Act and authorized funding for state non-point source management plans under section 319. If confirmed, I will implement the authorities granted to EPA by Congress.

74. You have attacked the Obama Administration’s “Waters of the United States” regulation, objecting to “the significant negative impact such a rule would inflict on states and the landowners within their borders.” Oklahoma’s major streams and rivers lie within two river basins, the Red and the Arkansas, both of which flow into other states. And Oklahoma receives most of its waters from upstream neighbors, particularly Texas. Without national regulation, how would you suggest that that Oklahoma’s downstream neighbors - Arkansas and Louisiana -

guarantee the quality of the water that flows across their boundaries? And how would you suggest that Oklahoma protects the quality of the water that it receives from upstream neighbors like Texas? You appear to believe that the only parties with an interest in water are those within a state, not downstream neighbors. Why?

Federal jurisdiction exists over navigable water, interstate water, and tributaries that can transport pollutants to navigable waters, and jurisdiction over the interstate rivers that are the subject of your question is not in dispute.

75. Communities across the country are facing the economic and health consequences of contaminated ground water, which impacts water systems and private well owners. How will you work to ensure communities are protected from drinking contaminated ground water? How will you address and strengthen the EPA's response to groundwater contamination and ensure homeowners and water systems are taking the steps to diagnose, treat, and remediate their groundwater resources?

For drinking water wells that are public water systems, the requirements of the Safe Drinking Water Act apply and EPA has authorities to provide small systems with technical assistance through circuit rider programs. For private well owners, the WIIN Act provided authority for EPA to support a drinking water technology clearinghouse for well owners. If confirmed, I will use the authorities and resources granted by Congress to help both public water systems and well owners.

76. This question is of interest to Senator Manchin and me: We must do everything we can to ensure that every American has access to safe and clean water. West Virginia has had issues with chemicals like PFOA in our drinking water as recently as last year. In fact, the State had to ship in alternative water supplies to the city of Vienna. Martinsburg and Parkersburg also had serious challenges. And, in 2014, the Elk River Chemical Spill left 300,000 West Virginians without access to potable water, so I know Senator Manchin looks forward to working with you to promote federal clean water initiatives. He also appreciates your commitment in your meeting together to working to address these challenges. Please outline how you intend to expand efforts to promote safe drinking water and support the modernization of our nation's water infrastructure.

If confirmed, I will focus on EPA's core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act.

I also will implement the newly revised TSCA statute to address chemicals and will continue implementation of monitoring, review, and regulation of contaminants under the SDWA if confirmed.

77. One of the tools within the Clean Water Act that communities can use to restore the quality of polluted waters is through the development and implementation of a Total Maximum Daily Load (TMDL) plan. The GAO also found that funding for TMDLs has been insufficient in meeting national needs, with more than 50% of the nation's waters being identified as impaired. Will you advocate for funding to match the needs for the TMDL program? How do you plan to support and strengthen the Total Maximum Daily Load (TMDL) regulatory framework?

If confirmed, I will support continued funding of State programs authorized under section 106 of the Clean Water Act, which states use in part for TMDL development. I also will support flexibility for state use of 106 funds to allow states to focus on priorities such as impaired waters requiring TMDLs. If confirmed, I also will support the continued development of tools to help states develop TMDLs. Finally, I would note that neither GAO nor EPA has said that 50% of the nation's waters are identified as impaired. For example, states have assessed about 32% of rivers and streams. Of those assessed waters, states have identified about 54% as impaired. That means states have data showing that 17% of rivers and streams are impaired. You cannot extrapolate the data from assessed waters to all waters because most states target their monitoring to focus on waters they have reason to believe are impaired, so they can target their resources where they are needed the most.

78. You expressed great pride in your role in resolving the Mahard Egg Farm enforcement, indicating that it demonstrates your commitment to enforce environmental law. When was the complaint in the litigation filed, and how did that date correspond to the date of the proposed consent decree? Based on your responses to these questions, how well investigated and developed was this case when you took office? Can you explain your personal involvement in either the complaint or the consent decree?

The complaint was filed on May 23, 2011. The consent decree was entered into on August 10, 2011. There was no filed case when I took office, but the matter had been investigated by the Office of Attorney General, the Oklahoma Department of Agriculture, the EPA, and the State of Texas. I authorized the filing of the case once in office. The complaint and consent decree were handled by the attorneys in the Office of Attorney General responsible for environmental matters.

79. Mr. Pruitt, the Clean Water Act requires EPA to review and revise its national water quality standards for pollutants based on the best available science. EPA has proposed or finalized more stringent standards for ammonia, nutrients, selenium, and dental offices. Do you agree that these standards must be based on the best available science?

Under section 303(c)(1) of the Clean Water Act, states are required to, every three years "hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards." Proposed changes to state water quality standards are submitted to EPA. Under 303(c)(3), EPA is to approve the state standards if they meet the requirements of the Clean Water Act. Under section 304, EPA establishes water quality criteria that provide guidance for state water quality standards. The Clean Water Act directs EPA to review these criteria documents "from time to time" except for criteria to protect public health from pathogens in recreational coastal waters, which must be reviewed every 5 years. Unlike the Safe Drinking Water Act, the Clean Water Act does not require the use of best available science. That said, I believe it is always important to use best available science, particularly for science documents like water quality criteria documents.

80. Last Congress, our committee worked together to pass the Frank R. Lautenberg Chemical Safety for the 21st Century Act, a bill overhauling the toothless Toxic Substances Control Act, that was signed into law earlier this year. EPA is now responsible for implementing the law, which will require a significant amount of resources. If confirmed, do you commit to ensuring EPA will prioritize implementation and has sufficient resources to comply with the requirements and timelines established by Congress?

As you are likely aware, I wrote this body a letter urging passage of the Lautenberg Chemical Safety Act. If confirmed as EPA Administrator, I will take care that the Act is faithfully executed. A copy of that letter is attached.

81. Last year, the Toxic Substances Control Act was signed into law. There was little doubt that this bipartisan legislation was overdue and very necessary to protect our constituents. EPA has already announced they are fast-tracking five chemicals under the authority of the new TSCA regime. You mentioned during our meeting earlier this month that you were concerned with some of the more aggressive timelines included in this legislation. Please elaborate. Please also outline how you intend to support the Agency in ensuring they have the resources to comprehensively implement this landmark legislation.

The Lautenberg Act has a number of statutory deadlines that must be met by the Agency when carrying out the law. If confirmed I fully intend to pick up the process where the previous administration left off with completing the required rulemakings and initial chemical reviews as well as subsequent prioritizations. The updated law also allowed for updating the industry user fees used to fund the program, a process started by the previous administration, and one which I intend to quickly evaluate.

82. You have publicly supported the recent updates to the TSCA law. Since this legislation pre-empts state actions, how does that align with your views on states rights and federalism? Do you agree that federal environmental laws – such as the Mercury and Air Toxics Rule, TSCA and Clean Power Plan – also provide certainty to businesses that have to do business across the country?

Article 1, Section 8, Clause 3 of the U.S. Constitution, which gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” Unlike the Clean Water and Clean Air Acts which regulate pollutants TSCA regulates chemical substances manufactured for commerce in not only all 50 states but often globally. Federal preemption of states is appropriate when dealing with interstate commerce issues and the Lautenberg Act’s preemption provisions comport to my views on states’ rights and federalism for those reasons.

83. Do you think that companies that work in the U.S. and around the world should be able to hide chemical information here that they have given to governmental regulators elsewhere?

The Lautenberg Act amended Section 14 of TSCA to delineate a process by which to protect, review, and possibly make public chemical information. If confirmed I intend to implement the law as passed by Congress.

84. In a 2005 U.S. Senate Committee on Homeland Security and Governmental Affairs hearing, President-elect Trump publicly praised asbestos, calling it “the greatest fireproofing material ever made.” Every major independent scientific organization, including the World Health Organization, the International Agency on Research for Cancer (IARC), and others, acknowledges asbestos as a known human carcinogen with no safe level of exposure. The US EPA spent years studying the dangers of asbestos, and ultimately attempted to ban most uses. Just last month, the EPA redoubled its stance on the dangerous nature of asbestos by designating it as a top-ten high-risk chemical for priority TSCA action. If confirmed, will you heed the decades of conclusive science about asbestos or

will you allow the President-elect's personal opinion skew the EPA's actions on asbestos?

The Lautenberg Act has extensive requirements for risk evaluations and the use of sound science in decisions throughout the chemical review and potential regulatory process. If confirmed I will implement the law following those statutory requirements.

85. You may be aware that asbestos use has drastically declined among industries that once used it heavily, including the construction and automotive sectors, as those industries began switching to safer substitutes. As a result, one industry now accounts for 90% of all asbestos consumed in the U.S. — the chlor-alkali industry, which uses asbestos diaphragms in its chlorine manufacturing process. The chlor-alkali industry has been the only point of public pushback against an asbestos ban under TSCA, and they have asked the EPA to exempt the chlor-alkali industry's use from any regulation on asbestos. Exempting the primary user from a restriction or ban, of course, would result in negligible impact. Will you commit to ensuring that any regulation or restriction on asbestos does not allow for any exemptions for the chlor-alkali industry or any other industry?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

86. The EPA promulgated a ban on asbestos in 1989, after a decade of research, risk evaluation, and rulemaking. In 1991, the asbestos ban was overturned by the 5th Circuit Court of Appeals on the grounds that the ban fell short of EPA's requirement to impose regulations that are "least burdensome" to industry. Under the Lautenberg Act reforms to TSCA, the EPA is now empowered to ban and regulate chemicals that are "toxic, persistent, and bioaccumulative," like asbestos, without concern for industry cost or any other non-risk factor. Will you commit to ensuring that industry concerns are not considered during the risk evaluation and rule making processes regarding asbestos?

The Lautenberg Act requires notice and comment be provided at multiple stages of the chemical review process including prior to publishing a final risk evaluation and through any potential subsequent regulatory rulemaking. This notice and comment is designed to get the input of a wide range of stakeholders to ensure sound and inclusive rulemakings and not to produce or dismiss comments from one particular entity or interest.

87. On April 9, 2015, you wrote a letter in support of the Lautenberg Act reforms to TSCA. In this letter, you expressed your support for the EPA: "I believe the agency, within the boundaries of its authorities as provided by Congress, serves a valuable mission to protect human health and preserve the environment." During the writing, negotiations, and passage of the Lautenberg Act, Congress — and the sitting President — made explicitly clear their intentions that the newly empowered EPA should swiftly ban asbestos and other deadly toxins. How will you ensure the EPA is able to meet statutory TSCA deadlines set forth by Congress?

I am committed to implementing the Lautenberg Act as required by law including meeting the statutory deadlines enumerated in the law including the required rulemakings, risk evaluations, and future chemical prioritizations.

88. In your April 9, 2015 letter in support of the Lautenberg Act reforms, you specifically praised the bill's explicit protection of vulnerable populations, including workers. Asbestos is one of the leading workplace carcinogens, responsible for approximately half of all occupational cancer deaths, according to the World Health Organization (WHO). During 1999 - 2014, the CDC NIOSH National Occupational Respiratory Mortality System (NORMS) database, there were 62,956 Americans who died from mesothelioma and asbestosis. These are just two of many deadly asbestos-related diseases. Given this data and your self-expressed concern for protecting workers, will you commit now to ensuring the EPA bans the import and use of asbestos under TSCA should you be confirmed?

Asbestos has been identified by the EPA as a high-priority chemical that requires a risk evaluation following the process established by the Lautenberg Act to determine whether conditions of use of the chemical substance pose an unreasonable risk. Prejudging the outcome of that risk evaluation process would not be appropriate.

89. Your home state of Oklahoma leads the nation in pesticide-related illnesses and deaths. At a time when pesticide/herbicide usage is on the rise across the country, how would you protect American workers, consumers, and landscapes from the toxic effects of agricultural chemicals?

If confirmed as Administrator, I would faithfully execute the laws administered by EPA. I would expect to be briefed by staff before taking any action on this issue.

90. What will you do to ensure EPA is conducting a transparent process regarding pesticide regulation? Please specify how you will approach notifying the public regarding pesticides in terms of notice of actions, publication of information (including studies and data) in the dockets, or timely responses to requests under the Freedom of Information Act. If you do not believe in a transparent process, why not?

If confirmed, transparency and openness will be priorities, and I will work to ensure that the pesticide registration process complies with all public notice and transparency requirements under the law.

91. In June 2016 the White House Pollinator Health Task Force, which was co-chaired by the EPA, released the Pollinator Partnership Action Plan. Do you support this plan and EPA's role in it? If not, why not? Mr. Pruitt, do you agree that vulnerable populations, like pregnant women, infants, and children, must be specifically considered in the study of the impacts of toxic chemicals on human health? Why is this important?

I am not personally familiar with the report referenced in this question. In considering the health effects of chemicals, if confirmed as Administrator, I would expect to be briefed by EPA staff before taking action and would work to ensure EPA followed all applicable legal requirements and made its decisions based on sound science. If confirmed, I would also follow legal requirements regarding the use of science and consideration of health impacts on specific subpopulations.

92. For nearly a decade, a state-permitted coal ash disposal pit in Bokoshe, OK, operated by a company named "Making Money Having Fun," has caused severe air pollution through releases of fugitive dust, which have harmed residents of the town of Bokoshe. Encompassing 458 acres, the Making Money Having Fun pit covers 259 acres of a former coal mine with enough coal ash to fill the 70-foot-deep pit and create a miniature mountain stacked 50 feet high. The site is permitted to rise another 550 feet over the next 20 years. By 2036, the coal ash pit could hold 9.2 million tons of toxic waste. Since 1998, residents have complained about the toxic dust to state regulators. Residents of Bokoshe, particularly children, have experienced extremely high rates of asthma that are linked to high levels of fugitive dust. In addition, residents experience elevated cancer rates that may be linked to the dump site. In 2011, the CBS Nightly News covered the exposure of the community to toxic dust. See <http://abcnews.go.com/US/oklahoma-town-fears-cancer-asthma-linked-dump-site/story?id=13303440>. In 2014, the U.S. Environmental Protection Agency acknowledged that there was a problem with fugitive dust at the site. Ash samples

collected in Bokoshe contained elevated levels of the carcinogens hexavalent chromium and arsenic, among other toxic metals. The Making Money Having Fun pit is not the only unlined coal ash dump in a former mine in Oklahoma. Seven miles west of Bokoshe, in McCurtain, OK, coal ash protrudes like an iceberg from a water-soaked pit. McCurtain residents have complained about dust clouds, spurring two state notices alleging violations — one in 2011 and another in 2015. State records show seven similar coal ash dump sites permitted in the county where Bokoshe is located.

- Did the Oklahoma AG Office ever investigate the Making Money Having Fun pit for environmental violations?
- Did your office take any actions to require Making Money Having Fun to control fugitive emissions at the site?
- As Oklahoma AG, what did your office do to investigate coal ash dumps in Oklahoma for violation of environmental or health standards?

The matter you reference was handled by Oklahoma's environmental regulators at the Department of Environmental Quality.

93. Mr. Pruitt, do you believe that all citizens in the U.S. should be equally protected from the threats posed by the dumping of coal ash? Currently, communities near municipal solid waste landfills and abandoned mines where millions of tons of toxic coal ash are disposed are not protected by the new federal coal ash rule. Do you think these communities deserve equal protection from pollution of their air, water and communities from coal ash?

I do not question the importance of clean air, land, and water, and I believe all Americans should be treated equally under the law.

94. Mr. Pruitt, do you think it is important for communities to know what hazardous substances are stored and disposed in their neighborhoods? Do you think it is important for citizens to know what hazardous substances are in their drinking water? If so, as head of EPA, will you guarantee that all coal ash permit programs approved by EPA will be as protective as the federal coal ash rule, including requiring communities be kept informed regarding the condition of toxic dumpsites near their homes and the safety of their drinking water?

As discussed in my testimony, public participation and transparency will be among my priorities if confirmed as Administrator. I do not question the importance of clean drinking water. It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is

fully and fairly considered with input from staff, as part of a transparent process that seeks input from stakeholders, and that is consistent with EPA's statutory authorities, including the coal ash provision in the WIIN Act.

95. Mr. Pruitt, environmental justice organizations have noted that 70 percent of coal ash dumps are located in low-income, disadvantaged communities. Do you agree that these communities deserve to know if coal ash ponds are leaking toxic substances into their drinking water supplies? Do you agree that these citizens have a right to expect that their drinking water be free of pollution from coal ash impoundments?

I am not familiar with the reports referenced in the question. As my testimony indicates, if confirmed as Administrator, I will prioritize public participation and transparency. I believe all Americans should be treated equally under the law.

96. In recent years, spills, leaks and collapses of coal ash impoundments have become a greater and greater hazard to clean water. In fact, more than half of the total toxic water pollution found in America's rivers, lakes and streams comes from such impoundments. Do you believe that coal ash from power plants and other coal-burning facilities should be regulated as a hazardous pollutant, given that its chemical composition includes lead, mercury, cadmium and arsenic? What would you do as Administrator to ensure that the kinds of ash spills recently devastating Kingston, Tennessee and Dan River, North Carolina, never again occur, anywhere?

I am generally aware that EPA has recently determined that coal ash from power plants should be regulated as a non-hazardous waste under Subtitle D of the Resource Conservation and Recovery Act and supports that decision. I understand provisions of the WIIN Act recently passed by Congress and signed into law provides EPA and states additional authority concerning the regulation of coal ash through permit programs. If confirmed, I will work to ensure this new authority is implemented.

97. Mr. Pruitt, a growing body of scientific evidence has shown that people living near mountaintop removal coal mines face a number of increased health risks, including greater risk of cancer, birth defects, and premature death. If you are confirmed as EPA Administrator, how would your agency consider these health concerns?

If confirmed, I would consider human health in accordance with EPA's legal authorities.

98. Mr. Pruitt, do you believe that the people who live downstream from surface coal mining operations deserve to have their sources of drinking protected from contamination from toxic chemicals such as arsenic, selenium and lead?

I strongly believe in the importance of safe drinking water, and if confirmed as Administrator, will work to implement EPA's statutory authorities in this regard.

99. Mr. Pruitt, the Manhattan Project and the Cold War triggered a boom in uranium mining in the United States. Uranium mining was carried out under the 1872 Mining Law, which did not require mining companies to clean up the mines. Abandoned uranium and other hardrock mines litter the West. These abandoned mines leach toxic chemicals, including uranium, radium, radon, and arsenic into surface and ground waters that are sources of drinking water.

- Do you agree that there is insufficient funding to address the huge problem of abandoned uranium and other hardrock mines?
- Do you agree that the 1872 Mining Law must be reformed to provide funding for the cleanup of abandoned mines?

I have not studied the issue of whether the 1872 Mining Law should be reformed or whether there is sufficient funding to address the cleanup of abandoned mines. I am generally aware of questions about whether current environmental laws inhibit the cleanup of abandoned mines by Good Samaritans, but I would expect to be briefed by staff before considering any actions on this topic.

100. The EPA is responsible for overseeing the cleanup of some of our nation's most contaminated lands. One such site is the West Lake Landfill, a Superfund site located in Bridgeton, Missouri. This site has been contaminated since 1973 when soils were mixed with residues from the Manhattan Project and used as daily cover in the landfilling operation. Local residents are rightfully concerned and frustrated by delays at the EPA in determining a proper course of action for handling this radioactive waste. In the 114th Congress the Senate unanimously passed legislation that would transfer the remediation authority for West Lake to the Army Corps of Engineers' Formerly Utilized Sites Remedial Action Program (FUSRAP). FUSRAP is already successfully overseeing the cleanup of nuclear contamination at other sites in the St. Louis area. However, as of this moment, the authority over the West Lake site remains with the EPA. Please explain your